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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,747	01/23/2004	Ernesto S. Tachauer	05918-320001 / VGCP No. 6	7629
26161 7590 04/18/2007 FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER WOLLSCHLAGER, JEFFREY MICHAEL	
			ART UNIT 1732	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS		MAIL DATE 04/18/2007	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/763,747

Applicant(s)

TACHAUER ET AL.

Examiner

Jeff Wollschlager

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 28-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 and 50-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

It is noted for the record that Examiner Wollschlager has assumed responsibility for this application from Examiner Eashoo.

Response to Amendment

Applicant's amendment to the claims filed January 22, 2007 has been entered. Claims 1 and 27 are currently amended. Claims 28-49 remain withdrawn from further consideration. Claim 53 is new. Claims 1-27 and 50-53 are under examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 53 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limiting effect of "to a temperature of 200 °F and about 600 °F" is unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1, 7-9, 16-18, 22 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Romanko et al. (US Pat. 6,484,371).

Regarding claims 1 and 27: Romanko et al. teaches the claimed process of: providing a sheet form base having a plurality of integrally molded male fastener elements (9:50-10:30); subsequently thermoforming the sheet into a structure having a non-planar topography (10:40-11:30); and forming a plurality of articles having a non-planar topography (Figs. 4a-4d).

Regarding claims 7-9: Romanko et al. further teaches: polypropylene and polystyrene (12:35-51).

Regarding claims 16-18: Romanko et al. teaches sheet form base thickness of 0.002-0.005 in (9:25-50).

Regarding claim 22: Romanko et al. teaches a thermoformed article having an undulating surface (Figs. 4a-4d).

Regarding claims 25-26: Romanko et al. teaches a molded product that has a type of framework and which could be used to line a portion of a mold as an insert (Fig. 4a-4d).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-27 and 50-53 are rejected under 35 U.S.C. 103(a) as being obvious over Tidemann et al. (US Pat. 5,738,816) in view of Kenny et al. (US Pat. 5,725,928).

Tidemann et al. teaches the claimed process of: thermoforming a sheet into a structure having a non-planar topography (3:35-65 and Figs. 1 and 7). Tidemann et al. also suggest that hook and loop fasteners may be "carried" by the strip portion which is vacuum thermoformed but do not specifically teach if it is carried and made through the molding process. Tidemann et al. also suggests that the fasteners are located in a flange portion of the moldable strip (6:10-30 and Figs. 1, 7). Kenny et al. teaches a fastener element/strip, that contains a magnetic material, and undergoes a molding process (Fig. 2 and 3:10-35). At the time of invention a person of ordinary skill in the art would have found it obvious to have use a fastener containing a magnetic material, as taught by Kenny et al., in the process of Tidemann et al., and would have been motivated to do so because Kenny et al. suggest that incorporation of the magnetic material aid in aligning the fastener materials with respect to the molding process.

Tidemann et al. further teaches PVC, PP, PE, polycarbonates as thermoformable materials (5:60-67), a thermoformed article having an undulating surface in the shape of a bowl having a flange (Fig. 1).

Kenny further teaches that making fastener elements by using a mold roll that is filled resin that is passed through a gap formed by a molding roll and pressure roll (Fig. 8), forming fastener elements in only desired locations on a sheet/strip (Fig. 11), a fastener strip formed with a foam backing (3:25-35).

Tidemann et al. does not teach specific molding temperatures and materials thickness. Nonetheless, optimizing the processing/molding temperatures of thermoplastic resins is well known in the molding art and materials thickness are known to be determined based upon the use of the molded article. At the time of invention a person of ordinary skill in the art would have found it obvious to have optimized the processing/molding temperatures, as commonly practiced in the art, in the process of Tidemann et al., and would have been motivated to do so in order to provide a material viscosity that would allow the material to conform to the desired mold shape intended for a desired use.

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romanko et al. (US Pat. 6,484,371).

Regarding claim 53: Romanko et al. teaches the claimed process of: providing a sheet form base having a plurality of integrally molded male fastener elements (9:50-10:30); subsequently thermoforming the sheet into a structure having a non-planar

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topography (10:40-11:30); and forming a plurality of articles having a non-planar topography (Figs. 4a-4d). Romanko et al. do not expressly teach the thermoforming temperature. However, the thermoforming temperature would have been readily optimized, as is routinely practiced in the art, based on the type of plastic being processed, the thickness of the material and the desired final shape and intended use of the product. At the time of invention a person of ordinary skill in the art would have found it obvious to have optimized the processing/molding temperatures, as is commonly practiced in the art, in the process of Romanko et al., and would have been motivated to do so in order to provide a material viscosity that would allow the material to conform to the desired mold shape intended for a desired use.

Response to Arguments

Applicant's arguments filed January 22, 2007, directed to the amended claims, have been fully considered but they are not persuasive.

Applicant's arguments appear to be on the following grounds:

1. Tidemann does not teach or suggest stems integrally molded with the base sheet and thermoforming the combined stems and base sheet.

Applicant's arguments are not persuasive for the following reasons:

1. The examiner maintains that Tidemann suggests integrally molded stems combined with the base sheet and thermoforming the combination. For example, Tidemann states the polymeric strip portion may carry hooks/stems (col. 6, lines 26-30) and further states that the web used to make the product may be provided, for example, as a preformed sheet or by direct extrusion (col. 3, lines 50-61). These teachings within

Tidemann reasonably suggest the hooks are preformed on the web prior to the thermoforming step, including immediately before (i.e. "direct extrusion"), the thermoforming step. Further, Kenny shows extruding a polymeric sheet with integrally formed hooks/stems (Figure 7). As such, when Tidemann and Kenny are taken together the combination teaches and suggests a sheet with stems/hooks integrally formed on the sheet by extrusion prior to the subsequent thermoforming step taught by Tidemann.

Conclusion

All claims are rejected.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Wollschlager whose telephone number is 571-272-8937. The examiner can normally be reached on Monday - Thursday 7:00 - 4:45, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JW

Jeff Wollschlager
Examiner
Art Unit 1732

April 10, 2007


CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER

4/16/07